



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

MAY 21 2004

OFFICE OF THE ADMINISTRATOR

Mr. Alphonso Jackson  
Secretary  
Department of Housing and Urban Development  
451 Seventh Street, SW  
Washington, DC 20410

Dear Mr. Jackson:

Thank you for signing the partnership Agreement between the U.S. Small Business Administration (SBA) and the U. S. Department of Housing and Urban Development.

I have executed the agreement and enclosed a copy. The delegation of the SBA's contract authority has been a great success, and with the execution of the enclosed agreement, that success continues. If you have any questions, please call Mr. Al Stubblefield at (202) 619-0628.

Thank you for your interest and continued support for small business programs.

Sincerely,

Hector V. Barreto  
Administrator

Enclosure

**PARTNERSHIP AGREEMENT**  
**Between the**  
**U.S. Small Business Administration**  
**And the**  
**U.S. Department of Housing and Urban Development**

**I. PURPOSE**

The purpose of this Partnership Agreement (PA) between the U.S. Small Business Administration (SBA) and the Department of Housing and Urban Development is to establish basic procedures for expediting the award of procurement actions pursuant to section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)) (the Act), and the SBA's regulations. This PA replaces all terms and conditions of any previously executed Memorandum of Understanding (MOU) or PA with HUD on the issue of expediting the award of requirements pursuant to section 8(a) of the Act.

**II. OBJECTIVES**

- a. Delineate the responsibilities regarding 8(a) Contracts between SBA and HUD;
- b. Establish the procedures for offer and acceptance between SBA and HUD;
- c. Reduce the interval between the time HUD contracting offices send an offering letter to SBA and receive an SBA decision on the offering to a maximum of five workdays;
- d. Emphasize that SBA only delegates the authority to sign contracts on its behalf. SBA remains the prime contractor on all 8(a) contracts;
- e. Eliminate SBA review of contracts and purchase orders executed under the authority of this PA; and
- f. Establish uniform policy and procedures regarding application of purchase orders to the 8(a) contracting process, when applicable.

**III. SCOPE**

This PA provides for the award of both contracts and purchase orders under the provisions of section 8(a) of the Act as implemented by the Federal Acquisition Regulation (FAR) (48 CFR) and SBA's 8(a) Business Development (BD) program regulations.

This PA encompasses all competitive and non-competitive acquisitions of requirements offered by the HUD contracting offices and accepted by the SBA into the 8(a) program.

This PA applies to all SBA offices and all HUD contracting offices (as defined in FAR 2.101 , Definitions) deemed appropriate by the head of the agency (as defined in FAR 2.101, Definitions) for HUD.

#### IV. RESPONSIBILITIES

a. The Small Business Administration:

1. Delegates to HUD's Chief Procurement Officer, for re-delegation to all warranted HUD contracting officers, its authority under section 8(a)(1)(A) of the Act to enter into 8(a) prime contracts, and its authority under section 8(a)(1)(B) of the Act to arrange for the performance of such procurement contracts by eligible 8(a) program participants. In accordance with 13 CFR 124.501 (a), the SBA delegates only the contract execution function. SBA remains the prime contractor on all 8(a) contracts, and the 8(a) participant remains SBA's subcontractor;
2. Shall implement its responsibilities under this PA through uniform procedures for use by all SBA offices;
3. Shall review HUD's offering letters, issue acceptance or rejection letters, and make eligibility determinations;
  - (a) Sole source procurements. SBA will issue an acceptance letter or notification of rejection within five working days after receipt of an offering letter. Acceptance shall include a size verification and determinations with respect to all elements of eligibility (e.g., determinations of adverse impact, North American Industry Classification System (NAICS) code appropriateness and program eligibility);
  - (b) Competitive acquisitions. SBA will issue an acceptance letter or notification of rejection within five working days of receipt of an offering letter. Following receipt of bids, and within two working days after a request from the contracting officer, SBA shall issue an eligibility determination with respect to the apparent awardee. In the case of a negotiated procurement following receipt of initial offers, including price, and within two working days after a request from the contracting officer, SBA shall issue an eligibility determination for all firms in the competitive range, if discussions are to be conducted. SBA will issue an eligibility determination for all firms with a realistic chance of award within two working days after a request from the contracting officer, if no discussions are to be conducted;

- (c) Requirements under the simplified acquisition threshold (FAR 2.101). SBA will review the eligibility of the 8(a) participant within two working days after receipt of a copy of the signed purchase order document. The purchase order document may be delivered by any means acceptable to SBA district office. SBA shall provide a copy of any negative eligibility determination to the contracting activity and the 8(a) participant. Absent receipt of a negative eligibility determination from SBA within two working days, the 8(a) contractor will be authorized to begin performance. No offering or acceptance letter is required for requirements processed under the simplified acquisition procedures threshold;
4. Shall review all proposed joint ventures involving 8(a) participants for approval before award;
  5. Shall provide 8(a) participants with assistance in contract negotiations when requested by either the 8(a) firm or the HUD contracting officer;
  6. Shall retain its appeal authority in accordance with FAR 19.810;
  7. Shall retain the right to perform on-site contract surveillance reviews;
  8. Shall retain the responsibility for compliance with all applicable provisions of 13 CFR Part 124, including determining eligibility;
  9. Shall select an appropriate 8(a) participant when HUD submits an open offering letter for a sole source requirement; and
  10. Shall issue a letter to the HUD Office of Small and Disadvantaged Business Utilization (OSDBU), with a copy to the Chief Procurement Officer (HUD's senior procurement executive), on a regular basis identifying accepted requirements for which award documents have not been received by the SBA district office.

- b. The Department of Housing and Urban Development:
1. Shall determine which requirements are suitable for offering to the 8(a) program in accordance with FAR Subpart 19.8, and, where appropriate, identify, in conjunction with the appropriate SBA servicing offices, 8(a) participants capable of performing these requirements;
  2. Shall submit the offering letter for sole source requirements to the SBA district office responsible for servicing the selected 8(a) participant, when an 8(a) firm has been identified;
  3. Shall submit an open offering letter for sole source requirements to the SBA district office that services the geographical area where the HUD contracting activity is located, when HUD has not identified a specific 8(a) participant for a requirement;
  4. Shall submit the offering letter for competitive 8(a) procurements to the SBA district office that services the geographical area where HUD's contracting activity is located, except that offering letters for construction work shall be sent to the SBA district office located in the geographical area where the work will be performed, or, in the case of construction contracts to be performed overseas, to SBA Headquarters;
  5. Shall retain responsibility for compliance with all applicable provisions of the FAR and HUD regulations, unless a deviation is obtained;
  6. Shall provide a copy of any contract, as defined in FAR 2.101 (including basic contracts, orders, modifications, and purchase orders), executed under this PA to the SBA servicing district office within 15 working days after the date of award. Repeated failure to timely provide the required documents to SBA may result in suspension or rescission of this PA for the particular HUD contracting activity;
  7. Shall retain the option to use tripartite procedures to award 8(a) contracts and purchase orders to 8(a) participants as specified in FAR Part 19;
  8. Shall ensure that all contracts awarded pursuant to this PA contain provisions that:
    - (a) Require the SBA's approval of novation agreements submitted by the 8(a) participant; and

- (b) Require advance notice to the SBA (as the prime contractor) prior to issuance of a final notice terminating the contract in whole or in part;
- 9. Shall ensure that all NAICS codes for all 8(a) contracts are applied in accordance with FAR 19.102;
- 10. Shall ensure that all contracts comply with the work performance requirements, in accordance with FAR 19.811-3(e);
- 11. Shall add language to every contract stating that, even though the SBA may not be identified in section A of the contract, it is still the prime contractor on the contract;
- 12. Shall provide all proposed joint ventures involving 8(a) participants to SBA for approval before contract(s) award; and
- 13. Shall not use contracts that have not been offered to and accepted by the SBA into the 8(a) BD. program for HUD's 8(a) negotiated goals.

## **V. CONTRACT EXECUTION**

The cognizant HUD contracting officer may make direct award of a contract to the 8(a) participant, but only after the requirement has been offered to and accepted by the SBA. Acquisitions that employ the simplified acquisition procedures authorized by FAR Part 13, limited to the simplified acquisition threshold (FAR 2.101), require no offer or acceptance. Contract execution shall be on the appropriate form specified in the FAR or HUD regulation. The "Issued by" block shall identify the awarding HUD office. The cognizant SBA district office for the 8(a) program participant shall be identified in the award document. The 8(a) participant's name and address shall be listed as the contractor. HUD's contracting activities are responsible for issuing procurement instrument identification numbers; SBA will not issue subcontract numbers.

## **VI. TERM**

This PA will take effect upon signature by both the SBA Administrator and the Acting Secretary of HUD. It will remain in effect until September 30, 2006.

## **VII. AMENDMENT**

This PA may be amended in writing at any time by mutual agreement of SBA's Associate Deputy Administrator for Government Contracting and Business Development and both HUD's Chief Procurement Officer and OSDBU Director.

## **VIII. TERMINATION**

Either SBA or HUD may terminate this PA upon 90 days advance written notice to the other party.

## **IX. CONDITIONS**

- a Contracts that have not been offered to and accepted by SBA into the 8(a) BD program -cannot be used for HUD's 8(a) negotiated goals.
- b SBA reserves the option to suspend or rescind the authority of this PA for a particular HUD agency that repeatedly fails to submit copies of award documents to SBA within 15 working days after award.

## **X. ADMINISTRATION**

### **For the Department of Housing and Urban Development:**


A. Jo Baylor  
Director  
Office of Small and Disadvantaged Business Utilization  
451 Seventh Street, Room 3130 (SS)  
Washington, DC 20410-1000  
A.\_Jo\_Baylor@hud.gov  
(202) 708-1428

### **For the SBA:**

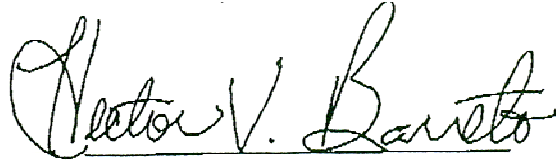
Associate Deputy Administrator for  
Government Contracting and Business Development  
409 3<sup>rd</sup> Street, SW  
Washington, DC 20416  
(202) 205-6459

## **XI. ACCEPTANCE**

As provided under the authority of the Partnership Agreement, the undersigned parties hereby accept the terms and conditions of this agreement.

A handwritten signature in black ink, appearing to read "Alphonso Jackson", written over a horizontal line.

Alphonso Jackson  
Acting Secretary  
Department of Housing and Urban  
Development

A handwritten signature in black ink, appearing to read "Hector V. Barreto", written over a horizontal line.

Hector V. Barreto  
Administrator  
U.S. Small Business Administration